(42)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO. 5389 OF 2006

PETITIONERS

1. Blasiyus Kujur, S/o. late Soma aged about 60 years, occupation ex-servicemen R/o Fundurdihari Lakarapara, Ambikapur, Distt. Surguja, (C.G.)
2. Paskar Kujur, S/o late Soma, aged about 36 years, occupation cultivator, R/o village Farsabahar, Tahsil Farsabahar, Distt. Jashpur, C.G.
3. Smt. Mariyam widow of late Soma, aged about 85 years, occupation house wife, R/o. village Kendutoli, Farsabahar, Tahsil, Kunkuri, Distt. Jashpur, C.G.

Vs.

RESPONDENTS

1. Smt. Flora Khes, wife of Thomas Khes, aged about 45 years, occupation house wife, R/o village Fundurdihari, Tahsil and Distt. Ambikapur, (C.G.)
2. Alexius Kujur, S/o. Late soma, aged about 57 years, R/o village Farsabahar, Sub-Tahsil Farsabahar, Distt. Jashpur, C.G.
3. Fausi @ Imaliya Kerketta, w/o Clement, aged about 54 years, R/o village Maujbhelva, Tahsil Kunkuri, Distt. Jashpur, C.G.
4. Elizabeth, w/o Augustus Ekka, aged about 42 years, R/o village Gadala, Tahsil Kunkuri, distt. Jashpur, C.G.
5. Tarsius Kujur, S/o late Soma, aged about 39 years, R/o village Sanaval, Tahsil Pal, Distt. Surguja, C.G.
6. Board of Revenue, Chhattisgarh At Bilaspur Camp, through its Chairman
7. Tahsildar, Ambikapur, Distt. Surguja, C.G.

Present : Shri Ashok Kr. Shukla, learned counsel for the petitioners.
Shri Utkarsh Verna, learned Dy. G.A. respondents 6 and 7.

ORAL ORDER

(Passed on 7th November, 2006)

If I may say so, a misconceived action on the part of the petitioners herein has enormously delayed the decision-making at the hands of the 7th respondent who is the original authority under the Chhattisgarh Land Revenue Code, 1959 (for short 'the Code') in the matter of mutating entries in the revenue records of the subject land. The first respondent herein made an application to the 7th respondent to mutate the entries with regard to the subject land in her name on the basis of a gift-deed executed by her father. The said application was opposed by the petitioners herein by filing a statement of objections contending that since they have already instituted a civil suit with regard to the same subject land, the application filed by the first respondent should be dismissed in *limine* without going into the merits of the matter. The said opposition raised by the petitioners was rejected by the Tahsildar. Feeling aggrieved by the said order, the petitioners preferred a revision to the Collector, Surguja District. The Additional Collector, Surguja allowed the revision and directed the 7th respondent to keep the application of the first respondent pending till the disposal of the suit instituted by the petitioners. Feeling aggrieved by the said order, the first respondent preferred a revision to the Board of Revenue, the sixth respondent herein. The sixth respondent by the impugned order allowed the revision of the first respondent and set aside the order of the Additional Collector, Surguja District. Hence, this writ petition under Article 227 of the Constitution of India.

(2) As I said, at the threshold, the opposition raised by the petitioners was misconceived. Simply because the petitioners have instituted a title suit in the civil Court, that fact itself would not divest the jurisdiction of the Tahsildar, Ambikapur, who is the statutory authority under the Code to exercise the statutory powers in the matter of mutation of entries. But, it is

true that whatever may be the order that may be passed by the Tahsildar or other statutory authorities under the Code shall be subject to the final result of the suit. It is well settled that the entries that may be ordered to be mutated by the statutory authorities under the Code shall always be subject to the decree that may be passed by a competent civil Court. In other words, the entries made by the statutory authorities are required to be altered, changed or modified so as to be in conformity with the decree of the civil Court. Be that as it may, when the original authority itself has not passed any order on the application made by the first respondent, there was no reason for the Additional Collector to direct the 7th respondent to keep the application of the first respondent pending till the disposal of the suit. In that view of the matter, no exception could be taken to the order of the Board of Revenue setting aside the order of the Additional Collector, Surguja District. There is no failure of justice. The order made by the Tahsildar rejecting the opposition raised by the petitioners does not suffer from any jurisdictional flaw. Writ petition is, therefore, dismissed. The Tahsildar, Ambikapur, the 7th respondent herein directed to dispose of the application filed by the first respondent strictly in accordance with the law, as expeditiously as possible, under any circumstance, within a period of three months from the date of receipt of a copy of this order, after giving reasonable opportunities to both the sides to represent their respective case. No costs.

Sd/-
Chief Justice